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AN ACT

relating to customs brokers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (a-1), (f), and (f-1), Section 151.157, Tax Code, are amended to read as follows:

(a-1) The comptroller shall maintain a password-protected website that a customs broker, or an authorized employee of a customs broker, licensed under this section must use to prepare documentation to show the exemption of tangible personal property under Section 151.307(b)(2). The comptroller shall require a customs broker or authorized employee to use the website to actually produce the documentation after providing all necessary information. The comptroller shall use the information provided by a customs broker or authorized employee under this subsection as necessary to enforce this section and Section 151.307. The comptroller may ~~shall~~ provide an alternate method to prepare documentation to show the exemption of tangible personal property under Section 151.307(b)(2) in those instances when the password-protected website is unavailable due to technical or communication problems. A customs broker or authorized employee may use the alternate method only if the comptroller provides prior authorization for each use.

(f) The comptroller may suspend or revoke a license issued under this section if the customs broker does not comply with

1 Section 151.1575(c) or issues documentation that is false [~~to~~  
2 ~~obtain a refund of taxes paid on tangible personal property not~~  
3 ~~exported or to assist another person in obtaining such a refund~~].  
4 The comptroller may determine the length of suspension or  
5 revocation necessary for the enforcement of this chapter and the  
6 comptroller's rules. A proceeding to suspend or revoke a license  
7 under this subsection is a contested case under Chapter 2001,  
8 Government Code. Judicial review is by trial de novo. The district  
9 courts of Travis County have exclusive original jurisdiction of a  
10 suit under this section.

11 (f-1) In addition to any other penalty provided by law, the  
12 comptroller may require a customs broker to pay to the comptroller  
13 the amount of any tax refunded and the amount of any penalty imposed  
14 under Section 151.1575(c) if the customs broker did not comply with  
15 this section or the rules adopted by the comptroller under this  
16 section [~~in relation to the refunded tax~~].

17 SECTION 2. Subsections (a), (b), and (c), Section 151.1575,  
18 Tax Code, are amended to read as follows:

19 (a) A customs broker licensed by the comptroller or an  
20 authorized employee of the customs broker may issue documentation  
21 certifying that delivery of tangible personal property was made to  
22 a point outside the territorial limits of the United States as  
23 required by Section 151.307(b)(2)(B) only if the customs broker or  
24 authorized employee:

25 (1) watches the property cross the border of the  
26 United States;

27 (2) watches the property being placed on a common

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1 carrier for delivery outside the territorial limits of the United  
2 States; or

3 (3) verifies that the purchaser is transporting the  
4 property to a destination outside of the territorial limits of the  
5 United States by:

6 (A) examining a passport, laser visa  
7 identification card, or foreign voter registration picture  
8 identification indicating that the purchaser of the property  
9 resides in a foreign country;

10 (B) requiring that the documentation examined  
11 under Paragraph (A) have a unique identification number for that  
12 purchaser;

13 (C) requiring the purchaser to produce the  
14 property and the original sales receipt for the property;

15 (D) [~~(C)~~] requiring the purchaser to state the  
16 foreign country destination of the property which must be the  
17 foreign country in which the purchaser resides;

18 (E) [~~(D)~~] requiring the purchaser to state the  
19 date and time the property is expected to arrive in the foreign  
20 country destination;

21 (F) [~~(E)~~] requiring the purchaser to state the  
22 date and time the property was purchased, the name and address of  
23 the place at which the property was purchased, the sales price and  
24 quantity of the property, and a description of the property;

25 (G) [~~(F)~~] requiring the purchaser and the broker  
26 or an authorized employee to sign in the presence of each other a  
27 form prepared or approved by the comptroller:

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1                   (i) stating that the purchaser has provided  
2 the information and documentation required by this subdivision; and

3                   (ii) that contains a notice to the  
4 purchaser that tangible personal property not exported is subject  
5 to taxation under this chapter and the purchaser is liable, in  
6 addition to other possible civil liabilities and criminal  
7 penalties, for payment of an amount equal to the value of the  
8 merchandise if the purchaser improperly obtained a refund of taxes  
9 relating to the property; ~~and~~

10                   (H) [~~G~~] requiring the purchaser to produce the  
11 purchaser's:

12                   (i) Form I-94, Arrival/Departure record, or  
13 its successor, as issued by the United States Immigration and  
14 Naturalization Service, for those purchasers in a county not  
15 bordering the United Mexican States; or

16                   (ii) air, land, or water travel  
17 documentation if the customs broker is located in a county that does  
18 not border the United Mexican States; and

19                   (I) requiring the purchaser and the broker or an  
20 authorized employee, when using a power of attorney form, to  
21 attest, as a part of the form and in the presence of each other:

22                   (i) that the purchaser has provided the  
23 information and documentation required by this subdivision; and

24                   (ii) that the purchaser is on notice that  
25 tangible personal property not exported is subject to taxation  
26 under this chapter and the purchaser is liable, in addition to other  
27 possible civil liabilities and criminal penalties, for payment of

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an amount equal to the value of the merchandise if the purchaser  
improperly obtained a refund of taxes relating to the property.

(b) A customs broker licensed by the comptroller or an authorized employee of the customs broker may issue and deliver documentation under Subsection (a) at any time after the tangible personal property is purchased and the broker or employee completes the process required by Subsection (a). The comptroller shall limit to six the number of receipts for which a single proof of export documentation may be issued under this section. The documentation must include:

- (1) the name and address of the customs broker;
- (2) the license number of the customs broker;
- (3) the name and address of the purchaser;
- (4) the name and address of the place at which the property was purchased;
- (5) the date and time of the sale;
- (6) a description and the quantity of the property;
- (7) the sales price of the property;
- (8) the foreign country destination of the property, which may not be the place of export;
- (9) the date and time:

(A) at which the customs broker or authorized employee watched the property cross the border of the United States;

(B) at which the customs broker or authorized employee watched the property being placed on a common carrier for delivery outside the territorial limits of the United States; or

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(C) the property is expected to arrive in the foreign country destination, as stated by the purchaser;

(10) a declaration signed by the customs broker or an authorized employee of the customs broker stating that:

(A) the customs broker is a licensed Texas customs broker; and

(B) the customs broker or authorized employee inspected the property and the original receipt for the property; and

(11) an export certification stamp issued by the comptroller.

(c) The comptroller may require a customs broker to pay the comptroller the amount of any tax refunded if the customs broker does not comply with this section, Section 151.157, or the rules adopted by the comptroller under this section or Section 151.157. In addition to the amount of the refunded tax, the comptroller may require the customs broker to pay a penalty of ~~[in an amount equal to the amount of the refunded tax, but]~~ not less than \$500 nor more than \$5,000. The comptroller and the state may deduct any penalties to be paid by a customs broker from the broker's posted bond.

SECTION 3. Section 151.158, Tax Code, is amended by amending Subsection (g) and adding Subsections (g-1) and (g-2) to read as follows:

(g) The comptroller shall charge \$2.10 ~~[\$1.60]~~ for each stamp. The comptroller shall use:

(1) \$1.60 of the money from the sale of the stamps only for costs related to producing the stamps, including costs of

1 materials, labor, and overhead; and

2                   (2) the remaining 50 cents only for enforcement of the  
3 laws relating to customs brokers under this title.

4           (g-1) Any unspent money shall be deposited to the credit of  
5 the general revenue fund.

6           (g-2) Customs brokers who return unused stamps to the  
7 comptroller's office on a quarterly basis shall get credit towards  
8 the purchase of new stamps.

9           SECTION 4. The change in law made by this Act applies only  
10 to documentation issued on or after the effective date of this Act.  
11 Documentation issued before the effective date of this Act is  
12 governed by the law in effect on the date the documentation was  
13 issued, and that law is continued in effect for that purpose.

14           SECTION 5. This Act takes effect September 1, 2011.

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David Dewhurst  
President of the Senate

Joe Straus  
Speaker of the House

I hereby certify that S.B. No. 776 passed the Senate on April 11, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 27, 2011, by the following vote: Yeas 31, Nays 0.

Patry Spaw  
Secretary of the Senate

I hereby certify that S.B. No. 776 passed the House, with amendments, on May 25, 2011, by the following vote: Yeas 143, Nays 2, two present not voting.

Robert Haney  
Chief Clerk of the House

Approved:

17 JUN '11  
Date

RICK PERRY  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
4:00 O'CLOCK  
JUN 17 2011  
Bob Nichols  
Secretary of State